

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

FEB 14 2002 I F

Michael H. Milby, Clerk

MARK NEWBY, *et al*, Individually and On
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

ENRON CORP., *et al*.

Civil Action No. H-01-3624
(Consolidated)

CLASS ACTION

**RESPONSE OF THE STATE RETIREMENT SYSTEMS GROUP
TO THE MOTION TO STRIKE THE STATE RETIREMENT SYSTEM GROUP'S
RESPONSE TO THE SUR-REPLY OF THE NEW YORK CITY PENSION
FUNDS AND THE FLORIDA STATE BOARD OF ADMINISTRATION OR,
IN THE ALTERNATIVE, REPLY THERETO**

The New York City Pension Funds and the Florida State Board of Administration ("FSBA") (collectively referred to as the "Florida Group") ask this Court to strike the State Retirement System Group's Response to the Florida Group's Sur-reply. In their motion, the Florida Group concedes that the Florida State Board of Administration ("FSBA") purchased 90% or more of its Enron shares through Alliance Capital, an FSBA investment advisor with a representative on Enron's board. The Florida Group also fails to dispute that FSBA and the State of Florida have publicly proclaimed that they are planning to sue Alliance in an individual, non-class case. The Florida Group contends that the State Group has misinterpreted the Florida Group's earlier briefing on the subject of its Alliance-related losses. The Florida Group asserts that it has never said that its Alliance-related losses were only 10% of its total losses. However, the Florida Group has stated:

"Even if one were to put aside any of the losses that the FSBA incurred in connection with the purchases made through Alliance on which the State Group and the Milberg

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Group focus, the NYC Funds and the FSBA still have losses in excess of \$409 million. . . ." see FSBA/NYC Funds Sur-Reply."

The Florida Group now explains that, while Alliance accounted for 90% of FSBA's overall losses, Alliance's purchase of Enron stock on FSBA's behalf between October 19 and November 16, 2001 accounts for only 10% of FSBA's losses.

The State Group welcomes this clarification. But all of FSBA's purchases are relevant to the Florida Group's fitness to serve as lead plaintiff. Moreover, the clarification, while welcome, does not begin to address the many problems faced by the Florida Group as putative lead plaintiff. The Florida Group is disabled because FSBA may not be able to prove deception, the defendants will have unique defenses available to them against FSBA and FSBA is planning to pursue individual non-class claims which may seek recovery from the same sources of limited funds otherwise available to the class FSBA seeks to lead.

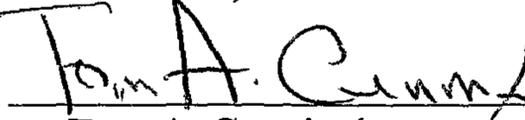
CONCLUSION

For the foregoing reasons, the State Retirement Group respectfully requests that the Florida Group's motion to strike be denied.

Dated: February 14, 2002

Respectfully submitted,

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the above and foregoing instrument has been served upon all counsel of record via facsimile on this 14th day of February, 2002.

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:
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ORDER

BE IT REMEMBERED that on this _____ day of _____, 2002, came on for consideration the Motion to Strike the State Retirement System Group's Response to the Sur-Reply of the New York City Pension Funds and the Florida State Board of Administration or, in the Alternative, Reply Thereto, and the Court, after considering the pleadings on file, and hearing the arguments of counsel, if any, is of the opinion that said Motion should be DENIED. It is therefore

ORDERED, ADJUDGED and DECREED that the Motion to Strike the State Retirement System Group's Response to the Sur-Reply of the New York City Pension Funds and the Florida State Board of Administration or, in the Alternative, Reply Thereto is DENIED.

SIGNED this _____ day of _____, 2002

JUDGE PRESIDING